



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
WASHINGTON, DC 20380-0001

MCO 4200.32
LB
11 Feb 93

MARINE CORPS ORDER 4200.32

From: Commandant of the Marine Corps
To: Distribution List

Subj: JUSTIFICATION AND APPROVAL (J&A) PROCEDURES FOR
ACQUISITIONS USING OTHER THAN FULL AND OPEN COMPETITION

Ref: (a) Federal Acquisition Regulation (FAR), part 6
(b) Defense Federal Acquisition Regulation Supplement
(DFARS), part 206
(c) Navy Acquisition Procedures Supplement (NAPS),
part 5206
(d) MCO 4200.28
(e) SECNAVINST 5231.1C
(f) MCO 5236.2

Encl: (1) J&A Requirements/Procedures
(2) J&A Format

1. Purpose. To provide uniform procedures for review and approval of contracting actions involving other than full and open competition as described in references (a) through (c).

2. Cancellation. HQO 5420.25H.

3. Applicability. This Order applies to all requirements acquired through other than full and open competition which are contracted for under the authority of the Deputy Chief of Staff for Installations and Logistics as Head of the Contracting Activity (HCA). This Order is not applicable to the Marine Corps Systems Command.

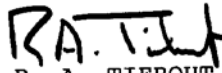
4. Background. References (a) through (c) prescribe the policies and procedures for contracting without providing for full and open competition. Reference (d) establishes the Competition Advocate Program within the Marine Corps. Citation 10 U.S.C. 2304 requires, with certain limited exceptions, that full and open competition be promoted and provided for by contracting officers. When required by reference (a), any exception to this full and open competition policy must be justified in writing. In addition, the references provide that the contracting officer is to ensure all requirements of law, regulation, and other applicable procedures are met, and that the required approvals are obtained. References (e) and (f) identify approvals that must be obtained prior to contracting for Federal Information Processing (FIP) resources (e.g., FIP equipment, software, services, maintenance, related supplies).

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5. Procedures. Review procedures, approval levels, and documentation requirements for J&A's are provided in enclosure (1). The required format for J&A's is provided in enclosure (2).

6. Request for Changes. Suggested changes to this Order should be sent to the Commandant of the Marine Corps (CMC) (LB) for consideration. Requested changes shall include a statement about why the change is needed, the recommended solution and any necessary discussion.

7. Reserve Applicability. This Order is applicable to the Marine Corps Reserve.



R. A. TIEBOUT
Deputy Chief of Staff
for Installations and Logistics

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Copy to: 7000110 (55)
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7000099, 144/8145001 (1)

J&A Requirements/Procedures

1. General. This Order implements the FAR, part 6; DFARS, part 206; NAPS, part 5206; and other higher level policy memorandums. It specifically establishes HCA policy/procedures required by NAPS, part 5206 and emphasizes areas of special interest to the HCA and Competition Advocate of the Marine Corps. Implementation of the guidance contained herein should facilitate the J&A review and approval process, while ensuring compliance with regulatory requirements.
2. Preparation. Preparation of a J&A is a joint effort and requires input from technical and requirements personnel, legal counsel, competition advocate, and contracting officer. Information required to support a recommendation of other than full and open competition shall be prepared by the technical/requirements officer responsible for the acquisition and submitted to the contracting officer as part of the procurement request (see enclosure (2) for prescribed format).
3. Technical and Requirements Review/Approval. Technical and requirements personnel must obtain review and approval at the Branch Head or higher level (or comparable position if Branch Head is not in the organization) of the cognizant technical/requirements office before submitting a recommendation for other than full and open competition to the contracting officer.
4. Legal Sufficiency. Legal review requirements are prescribed in NAPS 5206.303-92. Reviews shall be performed at the Eastern Area Counsel Office or Western Area Counsel Office, as appropriate, for field purchasing activities without assigned counsel. Counsel determinations shall be included under paragraph 16 of the J&A as shown in enclosure (2).
5. Format/Contents. Justifications shall be prepared in the format and sequence specified in enclosure (2) and shall contain sufficient facts and rationale to support the statutory authority cited. Each J&A shall contain the information required by FAR 6.303-2, DFARS 206.303-2, and NAPS 303-2, including the title, introductory paragraph, and information headings shown in enclosure (2).
6. Dollar Threshold/Approval Authority. Marine Corps approval authority is based on the estimated dollar value of the action, including all options, as follows:

<u>Dollar Threshold</u>	<u>Approval Authority</u>
Not exceeding \$100,000	Contracting officer

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<u>Dollar Threshold</u>	<u>Approval Authority</u>
Over \$100,000 but not exceeding \$1,000,000	Competition Advocate for the Procuring Activity (See NAPS 5206.003)
Over \$1,000,000 but not exceeding \$5,000,000	Competition Advocate of the Marine Corps (CMC (LB))
Over \$5,000,000 but not exceeding \$10,000,000	Head of the Contracting Activity
Over \$10,000,000 but not exceeding \$50,000,000	Deputy for Acquisition Policy, Integrity and Accountability, OASN (RD&A)
Over \$50,000,000	Senior Procurement Executive of the Navy

7. Certifications/Dates

a. Except as noted in paragraph 7b, below, certifications shall be obtained and dated in the order listed in enclosure (2). Only certifications listed up to and including the appropriate approval authority (see paragraph 6 above) are required on a J&A.

b. When the contracting officer is the approving official, the contracting officer shall initial and date the contracting officer certification block prior to submission for legal review. After the review for legal sufficiency, the contracting officer shall fully execute the certification (for approval purposes) pursuant to FAR 6.304(a)(1).

8. Numbering. All Marine Corps J&A's, D&F's, and business clearances shall be serially numbered (see NAPS 5201.690-10) in the upper right corner of the document as follows: MC (followed by the first letter of each word identifying the activity, followed by the first letter of each word in the city name, followed by a consecutive serial number beginning with 10,000). Decimal digits shall be used per NAPS, when required. All J&A's requiring approval at a level above the HCA shall be numbered by the CMC (LBP). Examples:

MCLBA 10052 (for Albany)
MCBCL 10120.1 (for Camp Lejeune)
MCRDSD 10010 (for San Diego)

9. Competition Advocate of the Marine Corps and Higher Level Approvals. The original and four copies of any J&A requiring the approval of the Competition Advocate of the Marine Corps or higher shall be submitted to the CMC (LBP) for processing. These J&A's shall be reviewed by the HQMC Contracts Division

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Review Board and the Competition Advocate of the Marine Corps for recommendations and concurrence prior to approval.

10. Unusual/Compelling Urgency.

a. The statutory authority of 10 U.S.C. 2304(c)(2) addressing unusual and compelling urgency requires that agencies request offers from as many potential sources as is practicable under the circumstances. Further, FAR 6.301(c) indicates that contracting without providing for full and open competition shall not be justified on the basis of a lack of advance planning by the requiring activity. Requirements and contracting personnel shall place special emphasis in these areas and ensure that these policies are satisfied when the urgency authority is cited.

b. Whenever a J&A requires approval at the Competition Advocate of the Marine Corps (CMC (LB)) or higher level and the authority of 10 U.S.C. 2304(c)(2) is cited, a memorandum certifying the urgency shall be executed by a general officer or a senior executive service civilian responsible for the requirement at the requiring activity. If neither of these levels exists at the requiring activity, the commanding officer or the command's senior civilian official shall execute the urgency memorandum. The memorandum shall describe the nature of the unusual and compelling urgency, why full and open competition is precluded, and the serious injury, financial or other, that would result from a delay in the award. This memorandum shall be attached to the J&A and referenced in paragraph 5 therein, if applicable.

c. For J&A's requiring approval at a level lower than the Competition Advocate of the Marine Corps (CMC (LB)) which cite 10 U.S.C. 2304(c)(2), the requirement for a memorandum certifying the urgency (as described in paragraph 10b, above) and the level of certification shall be at the discretion of the Competition Advocate for the Procuring Activity. Delegation to specify such levels is hereby provided to all properly appointed competition advocates.

11. Federal Information Processing (FIP) Resources.

SECNAVINST 5231.1 and MCO 5236.2 identify approvals that must be obtained prior to contracting for FIP resources including specific contracting officer responsibilities. No J&A for such resources shall be approved unless the approval requirements and guidelines of SECNAVINST 5231.1 and MCO 5236.2 are satisfied. J&A's involving FIP resource acquisitions shall include a discussion of appropriate approvals obtained under paragraph 9, "Any Other Supporting Facts." For example, reference to an approved Delegation of Procurement Authority or Warner exemption should be included in the J&A and a copy placed in the contract file. FIP resource approvals are separate from, and in addition to, the J&A approvals described herein.

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12. Modifications to J&A's. Procurement actions which are being performed on the basis of a J&A must be executed in compliance with the approved J&A. If a requirement changes such that an approved J&A no longer accurately reflects the requirement, the contracting officer shall submit a formal notice of the proposed change to the approval authority for concurrence prior to making the change.

ENCLOSURE (1)

J&A FORMAT

(USE CONTRACTING OFFICE LETTERHEAD)

(e.g., MCLABA 10052)

JUSTIFICATION AND APPROVAL TO PROCURE
USING OTHER THAN FULL AND OPEN COMPETITION

Upon the basis of the following justification, I, as (insert appropriate title; e.g., Senior Procurement Executive of the Navy; Deputy for Acquisition Policy, Integrity and Accountability; Head of the Contracting Activity; Competition Advocate of the Marine Corps; Competition Advocate for the Procuring Activity; or contracting officer), hereby approve use of other than full and open competition for the proposed contractual action pursuant to the authority of (insert appropriate authority; e.g., 10 U.S.C. 2304 (c) (1)).

Justification

(Insert content required by FAR 6.303-2, NAPS 5206.303-2 and as noted herein under the appropriate information headings listed below. These headings must be included in every J&A. If a particular heading does not apply, annotate N/A along with brief supporting rationale, unless the reason for nonapplicability is self-evident.)

1. Identification of Agency and Contracting Activity.

(e.g., Marine Corps; Marine Corps Logistics Base, Albany, Georgia, Contracts Directorate (Code 892).)

2. Nature/Description of Action.

(e.g., Contracting without providing for full and open competition. Also, include a discussion of the type of contract being contemplated and why. For class J&A's specify the time limit for the class justification.)

3. Description of Supplies/Services.

4. Identification of Statutory Authority.

(e.g., 10 U.S.C. 2304 (c) (1). Only one or a limited number of responsible sources exists and no other type of supplies or services will satisfy agency requirements.)

5. Demonstration of Contractor's Unique Qualifications.

(Or describe the nature of the action which requires use of the authority cited, if appropriate. If 10 U.S.C. 2304 (c) (2) is

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cited as the statutory authority, reference the memorandum required by paragraph 10 of enclosure (1) under this heading and attach it to the J&A.)

6. Commerce Business Daily (CBD) Announcement/Potential Sources.

7. Determination of Fair and Reasonable Cost.

(e.g., The contracting officer has determined that the anticipated cost to the Government will be fair and reasonable. Include a statement similar to the preceding sentence and a brief statement explaining the basis for such a determination.)

8. Description of Market Survey.

(Insert information required by FAR 6.303-2 (a) (8).) If a market survey was not conducted, a statement similar to the following could be inserted if appropriate:

Although a formal market survey was not conducted, this procurement was publicized in the CBD. A market survey was not conducted because it is not practicable to establish further competition for reasons stated in paragraph 5, above. In this case the CBD synopsis is considered to perform the same function as a market survey, advising industry of the pending procurement and soliciting inquiries from interested parties.)

9. Any Other Supporting Facts.

(In addition to the information described in FAR 6.302 (a) (9), include information on FIP resource approvals described in enclosure (1) to this Order, if applicable.)

10. Listing of Interested Sources.

11. Actions Taken to Remove Barriers to Competition.

12. Statement of Delivery Requirements.

13. Total Estimated Dollar Value of the Acquisition Covered by this J&A.

(Identify by fiscal year and appropriation; include options.)

14. Reference to the Approved Acquisition Plan (AP).

15. Documentation for Spare/Repair Parts Acquisitions.

16. Certifications.

ENCLOSURE (2)

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TECHNICAL AND REQUIREMENTS CERTIFICATIONS (FAR 6.303-2(b)):

I certify that the facts and representations under my cognizance which are included in this justification and its supporting Acquisition Plan No. _____ and which form a basis for this justification are complete and accurate.

Technical Cognizance:

(Signature)

Name and Title	Code	Phone	Date
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Requirements Cognizance:

(Signature)

Name and Title	Code	Phone	Date
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CONTRACTING OFFICER CERTIFICATION (FAR 6.303-2 (A) (12)):

I certify that this justification, including its supporting Acquisition Plan No. _____, is accurate and complete to the best of my knowledge and belief.

(Signature)

Name and Title	Code	Phone	Date
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REVIEW FOR LEGAL SUFFICIENCY (NAPS 5206.303-92):

This justification is determined legally sufficient.

(Signature)

Name and Title	Code	Phone	Date
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Approval

APPROVAL BLOCK (see paragraph 6 of enclosure (1) to this Order, FAR 6.304, and DFARS 206.304 for approving official):

APPROVED:

COMPETITION ADVOCATE (PROCURING ACTIVITY)	Date
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ENCLOSURE (2)

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COMPETITION ADVOCATE OF THE MARINE CORPS

Date

HEAD OF THE CONTRACTING ACTIVITY (FAR 6.304 (a) (3)) Date

ENCLOSURE (2)